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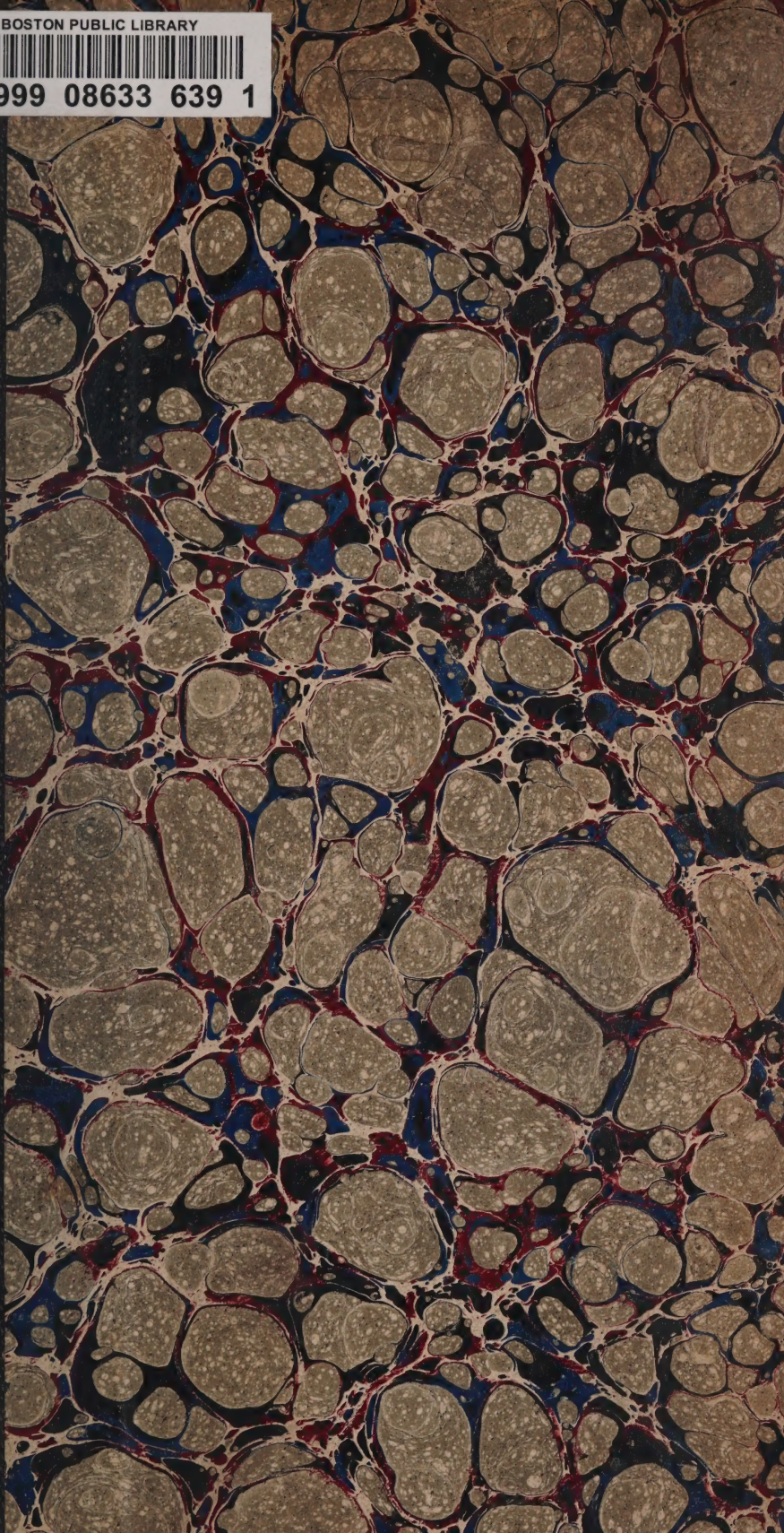

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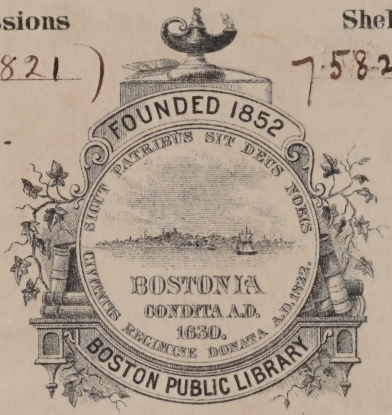

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REMARKS

UPON

THE CONTROVERSY

BETWEEN

MASSACHUSETTS AND SOUTH CAROLINA.

1509

REMARKS

UPON THE CONTROVERSY

BETWEEN THE

COMMONWEALTH OF MASSACHUSETTS

AND THE

STATE OF SOUTH CAROLINA.

BY A FRIEND TO THE UNION.

BOSTON:
WM. CROSBY & H. P. NICHOLS,
118 Washington Street.
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ADVERTISEMENT.

It is very probable that the remarks contained in the following pages will not please either of the two great parties which divide this Commonwealth, — and that, like the bat in the fable, when the beasts and birds went to war, they will be rejected by both sides, as belonging to neither. They are submitted to the public, however, at the suggestion of a few individuals, who feel a deeper interest in the preservation of the Union than in the success of party or sectarian measures.

BOSTON, January 25, 1845.

PUBLIC LIBRARY OF THE CITY OF BOSTON

REMARKS.

"'T will be recorded for a precedent,
And many an error, by the same example,
Will rush into the state."

This is, truly, an age of excitement. If we may judge from appearances, society seems to be in a fair way to illustrate the truth of the lunatic's remark, "that it is the *majority* of mankind who are mad, and that they have taken the only few rational men among them and shut them up in Bedlam." Religion and morals, literature, politics and trade are all on the same high-pressure principle. The man who stops on his way to reflect, is run over by the crowd; and if he ventures to inquire to what point the throng is directing its mad speed, he is pronounced to be "behind the age," and is left to pursue his journey alone. Nothing preserves its temperate pulsations but the clock, and because man cannot hasten its tardy gait he seeks his indemnity by attempting to anticipate it. Evil must necessarily come of this universal haste. But in most cases the evil will cure itself. Religion and morals will recover from the hasty theories which now tarnish their brightness; literature will return to her pure fountains; trade will retire within its proper banks and channels, but it is much to be feared that the political excitements of the day will not so readily and quietly seek their proper level.

It becomes the duty, then, of every man to do all he can to allay this preternatural excitement. He is no friend to his country who would pour oil rather than water upon its flames. There is more to be feared from doing too much than too little, at the present moment. He who possesses the coolest brain and most phlegmatic temperament is the safest counsellor in times like these. There has been no period since we became a nation, when so many exciting questions have been before the public.

Texas and Oregon, Slavery, and a host of less threatening evils, seem to have gathered themselves into a cloud, and hang upon the horizon with a portentousness and gloom that may well startle the stoutest heart from its security.

But in this, as in most other cases, man's safety, in a great degree, depends upon his prudence. Even in the convulsions of the natural world, he may, in some measure, guard himself against their violence; the traveller, amidst the Alps, is aware that a mere loud word may detach the avalanche that is suspended above his head, and bring it down in a mass to crush him; but in those of the moral world, his fate depends more especially upon himself.

The object of these remarks is not to counsel timidity, but prudence; not to recommend a cowardly shrinking from impending dangers, but firmness and moderation, rather than rashness and violence. "The wise man forseeth the evil and avoideth it, but the fool passeth on and is punished."

There are two questions now before the public which, though important in themselves, may be rendered much more so by the manner in which they are treated. We refer to the act of the legislature of South Carolina subjecting the free black to imprisonment; and the treatment which the agent of Massachusetts received from the legislature of South Carolina, in his late mission. These questions derive much of the difficulty that attends them, from their incidental connexion with the exciting subject of Slavery. Had the question between the two States been taken upon any other issue than that of domestic Slavery, it might have been adjusted without bitterness or strong individual feeling. As it is, the spark has unhappily fallen into the only mine that can produce a general explosion; and when we add to this the fact, that there are many among us who would exult at the devastation which such an explosion might create, we may well see the importance of treading warily a path so hemmed in with dangers.

That there will be many attempts to influence public opinion in this State, and through that to direct the course of the legislature, no one can doubt. An attempt of this kind has already been made in a publication entitled "An Appeal to the People of Massachusetts, on the Texas Question," in which a convention of the people is loudly called for, to take into consideration that question, and also "the conduct of the citizens of Charleston, and the government of South Carolina, towards the agent of Massachusetts, in his late mission."

It is gratifying to perceive that, as yet, the public mind is but little disturbed by this unlucky controversy; that our newspapers, almost without an exception, have pursued a calm and temperate course, and that the community have determined to leave to the legislature the difficult task of setting the two States free

from the awkward entanglement in which they are, at present, held. From the legislature first arose the difficulty, and to it we have a right to look for relief; how this is to be accomplished, is a question more easily asked than answered; — but one thing is clear, that the interference of the people can only serve to embarrass, rather than remedy the difficulty. It is to be hoped that the measures of the legislature upon this subject, whatever they may be, will be adopted without party or sectional feelings; — that every member will cast off, at the very door of the hall of legislation, his prejudices and private interests; and that the questions, which may arise, will be discussed with such a regard to their delicacy as well as importance, as will secure not only the confidence of our own community, but the respect of the State with which we have been thus unfortunately brought in collision. We trust it will not be forgotten that we are not demanding satisfaction for an alleged affront received from a foreign nation, but simply arranging a domestic difficulty that has arisen around our own fireside.

It is certainly true that these questions involve much difficulty in their arrangement. Whilst on the one hand they embrace an important question of constitutional law, on the other they involve the domestic peace and safety of a large portion of our country. On the one side stands the cold and abstract legal question, has the Constitution been violated? on the other, the thrilling inquiry, shall some of the fairest portions of our country be laid in ashes, and its citizens become the victims of the domestic assassin and incendiary?

However clear and plain may be the *language* of the Constitution, it must be manifest that the different parties to it, so far as it regards its *implied* provisions, will, in many cases, disagree in its construction; this has been the case ever since its adoption, and will be so till it ends. It is not in the power of man to provide for all the contingencies and emergencies that may arise under the most skillfully and cautiously constructed legal instrument. The changing conduct of man, and the lapse of years, bring up so many strange combinations of circumstances, that human foresight is unable to look so far down the vista of futurity as to anticipate any great proportion of its coming events. Our most honest and intelligent statesmen have differed upon many of the important questions that have already arisen; — nay, have held different opinions upon the same questions at different times. In support of this position, if it needs any support, it is only necessary to refer to the question of the constitutionality of a national bank; of the embargo which preceded the war of 1812; of the law establishing a tariff for protection, and the recent bankrupt law. The framers of our Constitution did all that men could do who were not gifted with the spirit of

prophecy, and the wonder is that they saw so far into futurity, rather than that their political vision extended no farther. Great and exciting questions must be continually arising; extensive as our country is, — running through so many degrees of latitude, — embracing such various climates, and consequently so diversified in manners and pursuits, perfect harmony, at all times, cannot be rationally expected. Interests must clash — different pursuits must necessarily conflict — the policy of the one part cannot always coincide with that of the other; and it is only by new modifications of the Constitution, and constant forbearance, that the good of the whole can be secured.

But this state of things does not necessarily militate with the duration of our Republic. If its citizens are true to themselves and the rich legacy bequeathed to them by their ancestors, these temporary obstructions may be removed as they arise, and the world yet see the great problem solved, whether man *is* capable of governing himself. It is probably the last chance that will ever be offered for its solution should the experiment in our own country prove unsuccessful. In case of such a failure even the Utopian would surrender up his last hope, and the most enthusiastic believer in the capacity of man for self-government would retire in despair. *We* have begun the experiment under circumstances more favorable to a successful result than any nation ever enjoyed before, or can hope for hereafter; and if this opportunity is lost—all is lost. Can it, then, be too often repeated or too strongly impressed upon the minds of those to whom the free institutions of our country are dear, that, in all cases of domestic discord, they are bound to proceed cautiously and prudently? that the appeal to strife and force in such cases, is the appeal of the madman to the torch and the firebrand? Should he not be considered as worse than a traitor *within* the walls, who would attempt to stir up the spirit of resentment among brothers?

But to return to the questions more immediately before us, and we will begin with the one which is of the least real importance.

Whatever may have been the treatment received by the agent of this State from the legislature of South Carolina, the result of his mission has not been in substance, different from that which every reflecting man, in any degree acquainted with the feelings of the South, anticipated. Had he possessed the spirit of martyrdom, he could not have courted a more favorable opportunity to secure its crown. Whatever the law of the case may be, the practical result might have been easily foreseen. It is true the anticipation of such a result does not justify it; but it brings strongly in question the propriety, on the part of the legislature of this State, of adopting a form of proceeding, the consequences of which promised to be as disastrous as these have proved to be. There were, surely, other and less offensive modes of testing the

rights of the free black citizen of this State, supposing them to have been violated by the laws of South Carolina, then by sending an authorized agent to reside within her borders. The humblest attorney at her bar, or the poorest master of a coasting vessel from which the prisoner might have been taken, was as competent to "raise a question of law" by a writ of habeas corpus, or an action of trespass and false imprisonment, as the agent of Massachusetts, and with much better prospect of success. There were no courts open to the agent of Massachusetts that were not equally so to the meanest of her citizens. The agent of the State, armed with a copy of the act of the legislature, possessed no more power to enforce the rights of an imprisoned citizen than any other man in Massachusetts. If funds were wanted, for the purpose of bringing the question before the Courts of the United States, they might have been furnished without the provoking display of an embassy to supply them.

But why, we would ask, this interference, on the part of the State, in this particular class of cases? Is there any *more* reason for her interesting herself in the wrongful imprisonment of a black citizen, than there would be in that of a white one who was suffering imprisonment in the same, or any other State, under an unconstitutional law, or no law at all? Ought not the aggrieved party, whether white or black, to be left to pursue his remedy under the laws of his country; and are not these laws, in all cases, sufficient for the purpose?

We are not disposed to contend that the free black, who pays taxes and contributes towards the support of the government under which he lives, is not a citizen of the United States, within a fair interpretation of the Constitution. If he is free, we can see no clause in that instrument which makes a distinction arising from color merely, though we are aware that this doctrine has been questioned in some of the free States. But admitting that he is so, there seems to be no good reason why a special provision should be made for *his* security, any more than for that of the white man. Every State is liable to pass a law which is, or may be supposed to be in violation of the Constitution of the United States. There are two writs of error now pending in the Supreme Court at Washington, which are brought to reverse certain judgments of the Courts of Massachusetts, on the alleged ground that the laws under which these judgments were rendered, are unconstitutional. Scarcely a session of the Supreme Court is held at Washington, in which some question does not come before that Court touching the constitutionality of some law of a sister State. In all such cases the citizens of another State coming within the jurisdiction of the State passing such law are exposed to its operation, and may suffer under it. What is the remedy in such an event? If the Courts of the State sustain the law, an

ample remedy is furnished to the injured party by an application to the Courts of the United States. Has it ever been doubted that this is an ample remedy? Have we been all this time living in a state of legal destitution without knowing it? Will it be denied that the black man, as well as the white, who is taken from his vessel, by force of an unconstitutional law and imprisoned, has an ample remedy if he, or his friends in his behalf, choose to resort to the Courts of the United States for indemnity against the injury he has sustained by the violation of his personal liberty? If any one doubts it, we refer him to the Constitution of the United States, (Art. 3d. Sec. 2.) It is certainly, then, a new arrangement to provide a public agent for such an emergency. Is it, then, surprising that such a proceeding should be construed into an intentional affront by the State whose municipal regulations such an agent is authorized to superintend?

Whether the law by which South Carolina claims the right to imprison the free black who enters her territories upon his lawful business is, or is not unconstitutional, we do not stop to inquire. That is a question which is to be settled by the highest tribunal of the country, and it is fortunate that neither the Courts of Massachusetts nor South Carolina have any authority to interfere in it.

We are willing to take it for granted that the law *is* in violation of the *letter* of the Constitution. But supposing the law, abstractly considered, and taken independently of all its circumstances, *is* unconstitutional, cannot such a state of things exist as would render such a law justifiable, or at least excusable? The law so much complained of, is one that, in effect, merely *suspends* the rights of the free black until the necessity for enacting it shall have passed away. Such laws are not the unheard of monsters that they are represented to be. The Constitution of Massachusetts, itself, recognizes the propriety and necessity of suspending the rights of the citizen when the emergency of the case requires it; and expressly confers upon the legislature the power of passing laws for that purpose. In Part First, Art. 20th, of the Constitution of Massachusetts, is the following provision: "The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for."

It may, perhaps, be said that this Article of the Constitution provides for the suspension of the laws of Massachusetts as to her own citizens, but not for the suspension of the rights of the citizens of other States, derived from the Constitution of the United States. In answer to this we reply that there is no such limitation in its terms — that if it does not apply to citizens of

other States it is a mere nullity; for any emergency that would render it justifiable to suspend the laws as to her own citizens, would make it requisite to do so as to the citizens of other States, or Massachusetts would exhibit this strange state of things — her laws suspended as to her own citizens, and in full force as to the citizens of other States who might happen to be within her jurisdiction; thus giving greater "privileges and immunities" to the citizens of other States than to her own! This we presume the Constitution of the United States never could intend. Its language is this, "The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." By this we understand that, when any citizen of any of the United States comes within the jurisdiction of any particular State, he is entitled to all the privileges and immunties of the citizens of that State — *and no more;* and if the laws can be suspended as to them, they can be as to him also. He has no peculiar privileges as a citizen of another State, but is merely entitled to all those privileges which the citizens of the State enjoy within which he may happen to be — the Constitution of the United States making, by the clause above cited, a citizen of one State a citizen of every State in the Union. It would follow then, as a matter of course, that if he is entitled to all the privileges and immunities of the citizens of any particular State, that he is subject to all the disabilities and penalties also that the laws of such State might impose or inflict. To contend that he is not subject to such disabilities and penalties would be giving him not only "*all* the privileges and immunities" of its citizens, but more and greater privileges.

If, then, the legislature of Massachusetts has a right to suspend her laws as to her own citizens, and also at the same time as to the citizens of other States, because her own safety requires it, has she not, as a principle following from these premises, a right to suspend her laws as to the citizens of other States, although at the same time she may not have suspended them as to her own citizens — the exigency of the case not requiring that they should be suspended as to her own citizens, but merely as to those of other States? On what principle is it that this right to suspend the laws is founded? Upon the emergency of the case — clearly. If so, is not the suspension to be co-extensive with the emergency, and nothing more? Are her laws to be suspended as to her own citizens when the necessity of the case does not require it in order to embrace, constitutionally, the citizens of other States? In which event would the greatest injury be done to the cause of freedom generally, by suspending the laws as to her own citizens and those of other States, when the necessity of the case only required that they should be suspended as to the citizens of other States, or by suspending them

as to the citizens of other States only? Does not the greater in this instance embrace the less? Would not the citizens of the particular State have reason to complain that the laws were suspended unnecessarily as to them, when suspending them as to the citizens of other States would remedy the whole evil? Is not that course always to be taken, in an emergency, that will occasion the least suffering and produce the least evil?

Does not this Article of the Constitution of Massachusetts authorize her legislature to do "in particular cases," all that the legislature of South Carolina has done "in the particular case" complained of? Suppose the "particular case" contemplated by the Constitution of Massachusetts should arise, and her legislature should see fit to suspend the operation of a particular law because the safety of her citizens required it, would the citizen of another State, who came voluntarily into her territory, knowing the suspension of such law, have any just reason to complain if he was subjected to the penalties and disabilities attending such a suspension of the law? Every man who knows anything of the construction of civilized society, knows that such power must be possessed by every government; and that cases will arise in which it *must* be exercised. A government that did not possess this power would be good for nothing; it would crumble into pieces by its own weakness. This principle lies at the very foundation of society, and can be overthrown only by the destruction of society itself. The oldest plea on record is the "plea of necessity." Who will undertake to state the origin of that ancient maxim that "necessity knows no law," whose date is so remote that it extends not only beyond the age of history, but even that of fable?

To illustrate the propriety of exercising such a power, let us take for example the recent unhappy controversy between the State of Rhode Island and a portion of her citizens. We do not mean to give an opinion upon the merits or demerits of that controversy. We take it as an example which lies at our very door, and, as we think, illustrating the case of necessity which we have before supposed. A civil war had actually broken out between the government of that State, or those claiming to be so, and a large number of her citizens — both parties were in arms — both claiming the right of government, and each charging the other with treason. It was impossible such an alarming state of things should fail to excite the most intense interest in every other State in the Union, but particularly in those States immediately bordering upon her territory. In this case, as in most others, there were different opinions as to which party had the right side of the contest. The excitement was not confined within the limits of the State of Rhode Island. Its flames had swept across its borders, and as might have been expected,

had wrapped some of the neighboring villages of Massachusetts in almost as intense a conflagration. Among those who were thus adjacent to this scene of civil war, there were many who favored the popular side of the question, and believed the Government of the State to be usurpers, and that the cause of the people was that of freedom. Nay, some of those who were in arms against the Government were citizens of other States, who had volunteered in the cause. Mass meetings were held in Boston, and clam-bakes in other parts of Massachusetts, at which resolutions were passed, encouraging the people of Rhode Island, and expressing sympathy for their wrongs. We mention these circumstances merely to show the relative position of the two parties in Rhode Island. Did not this state of things present a case which required that Rhode Island should look out for her own safety? With every reason to fear that the strong sympathy of those on her borders would aid and encourage, what she considered, her rebellious citizens, would it have been unconstitutional, or at any rate unjustifiable, if she had passed a law forbidding the entrance into her territory of the citizens of those unfriendly districts? After due notice of the enactment of such a law, had any prohibited person entered her territory in defiance of it, and consequently been imprisoned until he had pledged himself to depart, would any man insist that, in such an emergency, he had any reason to complain of a violation of his rights as a citizen, because, by a fair construction of the Constitution of the United States, he who is a citizen of one State is so of all? Is this cold reasoning to control the horrors of civil war? Is madness to rule under the garb of reason? Is man, is nature to yield to circumstances, and *law* never? Is there a nation whose history does not show periods of peril during which the regular course of law was not, and could not be maintained? It has been the good fortune of our country to be thus far exempted, in a great degree, from those alarming crises which have shaken the laws of other countries to their foundation. But we are not to suppose that we have taken a bond of fate, and that our history is to be free from all those foul blots that stain the records of those who have gone before us. The events in the history of Rhode Island, to which we have alluded, stand out too prominently in our annals to allow us to cherish a hope so flattering. The disgusting details of the Philadelphia riots are yet too loudly ringing in our ears, to permit us to doubt that our Republic nourishes in its bosom the same materials of disorganization that have overthrown other Republics.

We have instanced in the late events of Rhode Island an emergency, in which we think no man, however zealous he may be in the support of law, will hesitate to say that any measures would have been justifiable which the necessity of the case might

have required to save the lives and property of her citizens from destruction, and her city and villages from sack and conflagration. Let us continue the parallel a little farther, and ask what would probably have been her conduct had the State of Massachusetts, in the midst of her troubles, gravely sent an agent into her territory, to "raise a question of law" in behalf of some of its citizens, who had set her warning at defiance, and were in consequence suffering the imprisonment which had been foretold to them? If she had not dismissed him without a *very ceremonious* leave-taking, she is not the energetic and spirited little State we have supposed her to be.

It would be easy to multiply instances in which the general principles of law must, in the nature of things, yield to the necessity of the case. But this doctrine, that abstract principles must submit to particular modifications, is not confined to cases of extreme emergency only. Even the Board of Health of our city, or of the smallest village, possess the power of controlling the liberty of the citizen when the public good requires it. The whole body of the quarantine laws, as established by the legislature, is based upon this principle. A vessel arrives from a port in a neighboring State, say Charleston in South Carolina, in which an epidemic, the yellow fever, for example, is raging; she arrives at the quarantine ground — within the waters of the State of Massachusetts; she is detained there with her crew and passengers, many or all of them perhaps citizens of other States, until the Board of Health think it safe for the community that she should be allowed to approach our wharves, and her crew and passengers be permitted to mingle with our citizens. And even more than this, to use the language of the Statute, the Board of Health "may cause all persons arriving in, or going on board of such infected vessel, or handling such infected cargo, *to be removed to any hospital under the care of said Board of Health, there to remain under their orders.*" This is imprisonment—not exactly that of stone walls, but in many instances almost as severe. Is not the sufferer in this case restrained of his liberty? Has he not a right, by the Constitution, to enter the harbor? He has, certainly, but subject nevertheless to the paramount right of the community that he shall not exercise that right to the destruction of that community.

This, when viewed correctly, is no act of oppression. The good of the whole is the good of all the parts. The security of the individual is based upon the security of the whole community. There is not an intelligent man in the country who does not admit the correctness of this principle, and who does not see that his own safety rests upon it. There may be cases, like that now in dispute with South Carolina, where other matters may have so mingled themselves as to distract the vision, for a moment.

but a little reflection will convince us that all these matters are merely adventitious; and that the principle involved in that case is as simple and incontrovertible as in any of the cases we have just stated. Strip it of the exciting subject of Slavery, turn the black man into a white one, let it be the case of a vessel whose master has violated the quarantine regulations of the city of Charleston, and its romance disappears at once; sentimentality will dry its eyes, and the knife which has been so nearly drawn to be sheathed in the bosom of friends and brothers, will be thrown aside with shame and regret.

We readily admit the sacred character of personal liberty. We should regret to have it thought that we are disposed to treat it lightly. Next to life it is regarded by the law as the most important of all earthly blessings. But even in regard to that highest blessing, human life, the law recognizes the plea of necessity. There is no law so inflexible as that which prohibits the taking of human life. It is the law of God and man. But he must be ignorant of the first principles of natural as well as civil law, who is not aware that even this law, uttered at first in thunder from Mount Sinai, and repeated by man in every age of civilization, is not without its exceptions. Our law books are filled, and our newspapers teem with cases of *justifiable homicide.* The duty of man to preserve his own life is even greater, in the eye of the law, than that of preserving the life of another. In that terrible class of cases which sometimes arise in wrecks at sea, it has been held lawful to throw overboard a part of the wretched survivors who have sought their safety in the ship's boats, when their number has been greater than the security of the boat would allow; and to take even the life of some unhappy victim upon whom the lot might fall, when no other means of sustaining the lives of the survivors can be found! — a horrible and disgusting necessity which makes all other acts of self-preservation sink into absolute insignificance before it! Nor do the moralist and jurist differ on this point. It is recognized as a sound principle by writers upon moral philosophy, that, if two are afloat upon a plank which is able to support but one, either has a right to push the other from his seat, as an act of self-preservation! Need we go any farther in our elucidation of the rights which arise from that stern and inflexible tyrant — *necessity?* Does the imprisonment of a free negro for a few days, in comfortable apartments, when the object of such imprisonment is the prevention of a servile war, bear any comparison with the cases we have just enumerated?

Admitting, then, for the present, that the law of South Carolina imprisoning every free black who enters her territory, *is* against the letter of the Constitution, we think we have shown that an emergency might arise that would render such an act

justifiable upon the principle of self-preservation. It would seem, then, that the only remaining question is, did such an emergency exist, at the time of the enactment of that law, as rendered such a law absolutely necessary?

Much might be said, we think, upon the principle, that if the Constitution guarantees to the slave-holding States the right to hold slaves, it must, of course, be inferred that it also confers upon them the right to pass all such laws as may be necessary for the quiet enjoyment of the privilege which it secures to them; — that to give the right to hold slaves, without at the same time conferring the power to pass all such laws as might be necessary to keep them in proper subjection, would be little better than a solemn mockery, and would be giving the shadow and withholding the substance. But we shall confine ourselves to the simple proposition with which we started. Did the peculiar situation of the State of South Carolina render the law complained of, a matter of absolute necessity?

In order to understand this question rightly, it becomes necessary to look not only at the situation of Carolina as she is in and of herself, but as she stands in relation to the free States generally — and Massachusetts in particular. There is no doubt that her fears, upon the subject of slavery, have magnified her danger; that she views the hostility of the free States to her slave-holding rights as far more general and inveterate than it really is; that she has mistaken the echoed and re-echoed cries of a party, and that too a comparatively small one, for the deliberate expression of the sentiments of the whole community. She is not aware that the feelings of the great mass of the country, though averse to slavery, and particularly to its extension, is still decidedly in favor of supporting the rights secured to her by the Constitution, until some plan for its extinction can be suggested that shall be mutually satisfactory. The great body of the people of the North, though they commisserate the slave, know how to appreciate the embarrassing situation of the master — and the cry which has gone up against slavery is rather against the increase of the evil by adding new slave-holding States to the Union, than the full and perfect toleration of the system as it at present exists. Does not the South itself agree with the North in regretting the necessity of slavery? Would she not willingly unite with the free States in the adoption of any plan that would abolish the evil, if, at the same time, she could have justice done to herself? She has always professed these sentiments, and we think with perfect sincerity. We do not believe that there is a disposition at the North to *rob* her of her property without an indemnity. That there are some who consider slavery as worse than *all* other evils, we are aware; that to such persons the horrors of a servile or a civil war are

less dreadful than the continuance of slavery, we presume; for they profess to be willing to quaff their pledge against it, even in blood. They openly advocate a dissolution of the Union; but we do not believe the number of those who thus invite evils infinitely worse than those which they would cure, is so great as to endanger, in the slightest degree, the tranquillity of the community. Their unceasing activity, their entire devotion to the cause, and that enthusiasm which makes all labor light, have given them a prominence among the sects and parties of the country, which their numbers could never have secured to them. We think it not improbable, should these remarks ever reach the eye of any of our Southern friends, that they will be considered as mere declamation, or perhaps the "weak invention of an enemy;" but we write them in the midst of the most active of these partizans, whilst they are holding an "abolition fair" in the next street to us, and we honestly believe what we say, however we may have mistaken the facts.

At the time the legislature of South Carolina passed the law to which we have referred, she had *reason* to think that it was necessary to adopt some decided measures for her security as it regarded her slave population. A crisis *had* arrived which rendered it important, in the view of all her citizens, without distinction of party, that she should exclude from her limits whatever tended to the farther excitement of a class of her population, already seriously affected by the cry of "freedom to the slave," which was resounding from one part of the country to the other. Abolition tracts, many of them calling upon the slave to liberate himself by violence, were scattered through her State in the utmost profusion. On the one side she was invaded by preachers of abolition of the most fanatical character, and on the other by the abductors of her slaves — the sense of domestic security was gone — the master no longer read in the face of his slave the love and devotion of former days — the ready smile had been succeeded by the frown of discontent, or the scowl of anticipated revenge — the merry and careless laugh, so peculiar to the black, which had once rung out as clear and musical as the tones of a bell, had given place to the low whisper or half-muttered threat — the kindest treatment was no protection against domestic treason — the most indulgent master could not sit down to his table without the fear that poison might have been mingled with his food, or retire to his bed at night with the assurance that another sun would rise upon him — he could not leave his home for a day, without the dreadful apprehension that he might find his plantation, on his return, in ashes, and his family dispersed or massacred. In the midst of all this agitation the cry of abolition still came on, increasing in its violence. Had he friends at the North? If he had, they were silent, and apparently regardless.

It was in vain that he urged his rights under the Constitution — that he claimed protection under it — that he put his finger upon the clause that secured to him his ownership in his slaves — that he protested against this unfeeling interference with his most sacred claims.

We admit that it was not in the power of the free States, within which these schemes for exciting the slave to insurrection were maturing, to do any act to check the increasing evil. If a party chose to exert itself to abolish slavery by mere moral influence, by writing or declaiming against it, there was no law in the land to forbid it. The sober and prudent part of the community might look on with regret and evil forebodings, but they had no power to stay the course of the torrent — neither had the free States the power to prevent the emissaries of abolition from intruding into the slave-holding States. They could pass no law to prohibit such enthusiasts as the Rev. Mr. Torrey and Miss Delia Webster from a crusade into a neighboring State, however they might disapprove of the mischievous tendency of such a measure.

What course then remained for the State to adopt whose soil was overrun by such disseminators of mischief, who were sowing dragons' teeth that they might spring up armed men? Every exertion was made by Carolina to suppress these efforts to subvert her peace and security. Her post-office was guarded for the purpose of excluding incendiary publications. But it will readily be perceived that the utmost vigilance could render this but a very inadequate protection. It was little better than an attempt to exclude the wind that blew from the Northern States, every breeze of which came freighted with the seeds of discord. But even this attempt to secure herself was complained of by the presses of the free States as an act of oppression.

Notwithstanding these pacific precautions, the white emissaries of abolition, visiting Carolina under the pretence of business, or some other plausible pretext, still continued to scatter abroad the tracts of abolition societies and the records of their doings and speeches at their meetings, with a perseverance that set all efforts to restrain them at defiance. There was one apostle of rebellion, however, presented himself in the shape of the free negro of the North, who was worse than all the rest. The white man, from his very complexion and habits, could not obtain so readily an uninterrupted intercourse with the slave, or possess himself of his confidence, as the negro. The white man might betray — he could talk to the slave of freedom in the abstract only — the negro could illustrate it in his own person — he was free — free as ignorance and recklessness could make him — the only idea of freedom which the slave could comprehend. Not a vessel arrived from the North that did not, in the capacity of

cook or mariner, number among its crew one or more of these dark emissaries of evil. To restrain him in his intercourse with the black population was impossible. His "word was as good as his bond," literally, for neither were good for anything. Actual confinement for the time during which his vessel remained in port was the only, the sole remedy. Any other mode of restraint would have been as idle and useless as to have attempted to "fetter flame with flaxen band." Imprisonment became absolutely necessary.

Carolina was aware that this was an important step — that it would be complained of by the North as all her precautionary measures had been, and she wisely and prudently determined that the act should be sanctioned by the highest authority — her legislature; and the law, of which the State of Massachusetts now complains so loudly, was passed with the sanction and approval of her wisest and best men. This was not a hasty proceeding, projected and executed in the dark, to catch the unwary, and lure an enemy into the toils. It was an open and manly warning to the whole world, that a crisis had arrived in her affairs that rendered it necessary that such a measure should be adopted. It was not like the laws of Draco, written in blood, or posted so high that no one could read it. It was mild; it was what the emergency of the case absolutely demanded. There was not a master of the smallest coaster that sailed for the port of Charleston, ignorant as he might be of other things, who did not know the existence of this law.

Under this state of things we put the question boldly and confidently to every dispassionate man of the North, what could Carolina have done less? Would not Massachusetts, in a reverse of circumstances, have done more? Has not the latter State, from the very commencement of her history, been more prompt than any other State to resent any infringement of her rights? Would the State on whose soil the first gun of the Revolutionary war was discharged, and the first drop of blood was shed, have been more forbearing, in similar circumstances, than Carolina? We have lived too long among her people to fear the reply.

There are few States in the Union with which any misunderstanding is more to be regretted by Massachusetts than with South Carolina. She is one of the Old Thirteen, who stood shoulder to shoulder with us during the war of the Revolution. She furnished, during that period of privation and danger, her full quota of wise legislators, patriotic statesmen, and gallant officers. She suffered as much, and perhaps more, during that glorious struggle for independence, than any State in the Union. She has sent, since that time, to the councils of the nation, legislators of the most brilliant and splendid talents, and has

manfully redeemed, in after years, the rich promises she gave in the early period of her history. It is true she has not acquiesced so readily in the national policy of the few past years as could have been wished. But it is equally true that that policy has pressed hardly upon her, and it would seem churlish indeed to deny to the suffering the common privilege of complaint. If she has striven to throw off that policy, she has done no more, perhaps, than the right of self-preservation would justify; and if the manner has sometimes been less prudent than it should have been, we think she would meet with little difficulty in finding a precedent among the records of her sister States.

The present difficulty between the two States is the more painful from the social and friendly intercourse which has, until within a few years past, subsisted between their capitals. Charleston and Boston have maintained a closer and more friendly intimacy than any two other Northern and Southern cities. In the days of the prosperity of Carolina, when her cotton plantations produced their harvests of gold, a Northern summer was sure to bring to our city her fair daughters, her rich planters and distinguished Statesmen; her money was scattered with a free and generous hand, and the pains-taking inhabitants of our city are the richer this day, for her careless and open-hearted liberality. Our green hills and fruitful vallies, our quiet lakes and picturesque scenery, the comfortable ease and independence of our people, were themes of never-ending praise and admiration. The Southerner left us as he would have left the home of his brother, invoking blessings upon us, taking his flight at the same season with the birds of passage, and in flocks almost as numerous. The Southern winter afforded him an opportunity of reciprocating the hospitality he had received, nor was he backward in the discharge of his obligations — he nobly redeemed at home the pledges he had given abroad; his house, his table, his horses and servants were at the unlimited command of his Northern visitor; abolition had not then severed the tie that bound him to his guest; he measured his kindness with no stinted hand. We can speak feelingly on the subject, for we have experienced the truth of the faint and unsatisfactory picture we have attempted to draw. Amongst all our youthful reminiscences there are none so strong as the warm-hearted welcome of the Southerner. The day has been when at the South it was recommendation enough for the stranger that he was a Bostonian. It is sad to reflect how the state of things has changed; that Massachusetts is now in the van-guard of those he esteems his foes; that he meets her citizens not as friends in the festal hall, but as armed champions in the lists; and feels that at such a meeting, as at that of the Southern low-lander and Scotch borderer, in former days, the strife must be deadly.

But it was not our intention, when we began these pages, to compose a dirge for the funeral of days that are gone. Our intention was merely to speak peace to the troubled waves of party, and throw our weight, however small, into the balance, that the scale of forbearance and moderation might preponderate. Neither is it our wish, in any way to mingle ourselves with the bitter and troubled waters of abolition. We have simply stated the facts, as we understand them, in relation to the course pursued by that party which is laboring so abundantly in the cause of slave emancipation. We have done so with no malice towards the party, and without intending to impugn their motives. We may think their measures rash and injurious to the safety of the country, and yet suppose them honest in their designs — many of them undoubtedly are so. It would be strange if a party composed of so many adherents did not number in its ranks some whose intentions are pure and upright. We confess, however, that the conduct of that party at the late presidential election, has gone farther to shake our confidence in its disinterestedness than all its preceding movements. We have heretofore believed their designs, however unwise, were philanthropical; but we see no reason now why they should not be classed amongst the political parties of the day,

> "Who sigh and groan,
> For public good, and mean their own."

We can have but little hope that the remarks contained in these pages will be of any great public utility. We know too well the obstinacy of party feeling to rely with much confidence upon the influence of mere cool and dispassionate reasoning.

> "You may as well go stand upon the beach,
> And bid the main-flood bate his usual height,"

as try to reason down the prejudices of party. But there may be a few who will acquire, even from these imperfect remarks, a somewhat different view of the questions which have recently arisen between Massachusetts and South Carolina; and if we can, in any way, check the downward rush of the mighty wheels which have been so unhappily set in motion, our object will be answered.

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